

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HARJIT GILL,

Plaintiff,

vs.

AMERICAN MORTGAGE EDUCATORS, INC., a Washington corporation; LISA JANE ROSENBERGER; PERFECTO BOBADILLA; ROBERT ROSENBERGER; ISQ SOLUTIONS, INC., a Canadian corporation; FORONA TECHNOLOGIES, INC., a Washington corporation; JOHN DOES 1 THROUGH 5,

## Defendants.

---

AMERICAN MORTGAGE EDUCATORS, INC., a  
Washington Corporation,

Plaintiff,

10

HARJIT SINGH GILL, a married man in his separate capacity,

Defendant.

11

DEFENDANT FORONA  
TECHNOLOGIES, INC.'S ANSWER AND  
AFFIRMATIVE DEFENSES – Page 1

LADENBURG  
KRAMER, PLLC  
Attorneys At law

1019 Pacific Avé. Suite 1116  
Tacoma, Washington 98402  
Phone: (253) 272-5226  
Facsimile: (253) 295-2326

1                   Defendant Forona Technologies, Inc. ("Forona"), by and through its attorney, John  
2 W. Ladenburg, Jr., of Ladenburg Kramer, PLLC, and by way of answer to Plaintiff's  
3 Amended Complaint, state as follows:  
4

5                   **I. PARTIES**

6                   1. Forona is without knowledge or information sufficient to form a belief as to  
7 the truth of the allegations contained in Section I, paragraph 1 of the complaint and,  
8 therefore, denies the same.

9                   2. Forona is without knowledge or information sufficient to form a belief as to  
10 the truth of the allegations contained in Section I, paragraph 2 of the complaint and,  
11 therefore, denies the same.

12                   3. Forona is without knowledge or information sufficient to form a belief as to  
13 the truth of the allegations contained in Section I, paragraph 3 of the complaint and,  
14 therefore, denies the same.

15                   4. Forona is without knowledge or information sufficient to form a belief as to  
16 the truth of the allegations contained in Section I, paragraph 4 of the complaint and,  
17 therefore, denies the same.

18                   5. Forona is without knowledge or information sufficient to form a belief as to  
19 the truth of the allegations contained in Section I, paragraph 5 of the complaint and,  
20 therefore, denies the same.

21                   6. Forona admits the allegations contained in Section I, paragraph 6 of the  
22 complaint.  
23

7. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section I, paragraph 7 of the complaint and, therefore, denies the same.

## II. JURISDICTION AND VENUE

1. The allegations contained in the Section II, paragraph 1 of the complaint either constitute legal conclusions for which no answer is required, or Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same, or Forona generally denies the same.

2. Forona admits this court has jurisdiction over plaintiff's copyright and trademark claims. The remaining allegations contained in Section II, paragraph 2 of the complaint either constitute legal conclusions for which no answer is required or Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

3. Forona admits this court has personal jurisdiction over it and venue is proper. As the remaining allegations contained in Section II, paragraph 3 of the complaint, Forona either is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.4 of the complaint and therefore, denies the same, or generally denies the same.

4. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section II, paragraph 4 of the complaint and, therefore, denies the same.

11

11

### III. FACTS

1. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 1 of the complaint and, therefore, denies the same.

2. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 2 of the complaint and, therefore, denies the same.

3. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 3 of the complaint and, therefore, denies the same.

4. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 4 of the complaint and, therefore, denies the same.

5. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 5 of the complaint and, therefore, denies the same.

6. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 6 of the complaint and, therefore, denies the same.

7. Forona is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III, paragraph 7 of the complaint and, therefore, denies the same.

1       8. Forona is without knowledge or information sufficient to form a belief as to  
2 the truth of the allegations contained in Section III, paragraph 8 of the complaint and,  
3 therefore, denies the same.  
4

5       9. Forona is without knowledge or information sufficient to form a belief as to  
6 the truth of the allegations contained in Section III, paragraph 9 of the complaint and,  
7 therefore, denies the same.  
8

9       10. Forona is without knowledge or information sufficient to form a belief as to  
10 the truth of the allegations contained in Section III, paragraph 10 of the complaint and,  
11 therefore, denies the same.  
12

13       11. Forona is without knowledge or information sufficient to form a belief as to  
14 the truth of the allegations contained in Section III, paragraph 11 of the complaint and,  
15 therefore, denies the same.  
16

17       12. Forona is without knowledge or information sufficient to form a belief as to  
18 the truth of the allegations contained in Section III, paragraph 12 of the complaint and,  
19 therefore, denies the same.  
20

21       13. Forona is without knowledge or information sufficient to form a belief as to  
22 the truth of the allegations contained in Section III, paragraph 13 of the complaint and,  
23 therefore, denies the same.  
24

25       14. Forona is without knowledge or information sufficient to form a belief as to  
26 the truth of the allegations contained in Section III, paragraph 14 of the complaint and,  
27 therefore, denies the same.  
28

1       15. Forona is without knowledge or information sufficient to form a belief as to  
2 the truth of the allegations contained in Section III, paragraph 15 of the complaint and,  
3 therefore, denies the same.  
4

5       16. Forona admits that Exhibit B to the Complaint is the April 26, 2007 order of  
6 the superior court handling the divorce between defendant Ms. Rosenberger and plaintiff Mr.  
7 Gill. With respect to allegations in contained in Section III, paragraph 16 of the complaint  
8 summarizing the order, Forona states the document speaks for itself.  
9

10       17. Forona is without knowledge or information sufficient to form a belief as to  
11 the truth of the allegations contained in Section III, paragraph 17 of the complaint and,  
12 therefore, denies the same.  
13

14       18. Forona is without knowledge or information sufficient to form a belief as to  
15 the truth of the allegations contained in Section III, paragraph 18 of the complaint and,  
16 therefore, denies the same.  
17

18       19. Forona is without knowledge or information sufficient to form a belief as to  
19 the truth of the allegations contained in Section III, paragraph 19 of the complaint and,  
therefore, denies the same.  
20

21       20. Forona is without knowledge or information sufficient to form a belief as to  
22 the truth of the allegations contained in Section III, paragraph 20 of the complaint and,  
23 therefore, denies the same.  
24

25       21. Forona admits that it is a Washington Internet Service Provider and that it  
26 hosted a website for defendant American Mortgage Educators, Inc. As to the remaining  
27 allegations contained in Section III, paragraph 21 of the complaint, Forona either is without  
28

1 knowledge or information sufficient to form a belief as to the truth of the allegations  
2 contained therein and therefore, denies the same, or generally denies the same.  
3

4 22. Forona is without knowledge or information sufficient to form a belief as to  
5 the truth of the allegations contained in Section III, paragraph 22 of the complaint and,  
6 therefore, denies the same.

7 23. Forona admits that it received a request from Mr. Gill, through his counsel, to  
8 remove software off the site it was hosting on May 17, 2007. Forona denies the remaining  
9 allegations contained in Section III, paragraph 23 of the complaint.  
10

11 24. Forona is without knowledge or information sufficient to form a belief as to  
12 the truth of the allegations contained in Section III, paragraph 24 of the complaint and,  
13 therefore, denies the same.  
14

15 25. Forona is without knowledge or information sufficient to form a belief as to  
16 the truth of the allegations contained in Section III, paragraph 25 of the complaint and,  
17 therefore, denies the same.  
18

19 26. Forona is without knowledge or information sufficient to form a belief as to  
20 the truth of the allegations contained in Section III, paragraph 26 of the complaint and,  
21 therefore, denies the same.  
22

23 27. Forona is without knowledge or information sufficient to form a belief as to  
24 the truth of the allegations contained in Section III, paragraph 27 of the complaint and,  
25 therefore, denies the same.  
26

27 //

//

//

## COUNT 1: COPYRIGHT INFRINGEMENT

1.-8. To the extent the allegations contained in Count 1, paragraphs 1-8 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

## **COUNT 2: FALSE DESIGNATION OF ORIGIN**

1.-4. To the extent the allegations contained in Count 2, paragraphs 1-4 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

### COUNT 3: UNFAIR COMPETITION UNDER LANHAM ACT § 43

1.-2. To the extent the allegations contained in Count 3, paragraphs 1-2 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

**COUNT 4: UNFAIR BUSINESS PRACTICE UNDER RCW § 19.86.010 *et seq.***

1.-2. To the extent the allegations contained in Count 4, paragraphs 1-2 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

## COUNT 5: COMMON LAW UNFAIR COMPETITION

1.-3. To the extent the allegations contained in Count 5, paragraphs 1-3 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

## COUNT 6: CONTRIBUTORY INFRINGEMENT

1. Forona re-alleges and incorporates all responses to the allegations contained in the preceding paragraphs.

1       2. Forona is without knowledge or information sufficient to form a belief as to  
2 the truth of the allegations contained in Count 6, paragraph 2 of the complaint and, therefore,  
3 denies the same.  
4

5       3. Forona denies the allegations contained in Count 6, paragraph 3 of the  
6 complaint.  
7

8       4. To the extent the allegations contained in Count 6, paragraphs 4 pertain to  
9 Forona, Forona either is without knowledge or information sufficient to form a belief as to  
10 the truth of those allegations and therefore, denies the same, or generally denies the same.  
11

12       5. To the extent the allegations contained in Count 6, paragraphs 5 pertain to  
13 Forona, Forona either is without knowledge or information sufficient to form a belief as to  
14 the truth of those allegations and therefore, denies the same, or generally denies the same.  
15

16       6. To the extent the allegations contained in Count 6, paragraphs 6 pertain to  
17 Forona, Forona either is without knowledge or information sufficient to form a belief as to  
18 the truth of those allegations and therefore, denies the same, or generally denies the same.  
19

#### **COUNT 7: TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP**

20       1.-2. To the extent the allegations contained in Count 7, paragraphs 1-2 pertain to  
21 Forona, Forona either is without knowledge or information sufficient to form a belief as to  
22 the truth of those allegations and therefore, denies the same, or generally denies the same.  
23

#### **COUNT 8: DEFAMATION**

24       1.-2. To the extent the allegations contained in Count 8, paragraphs 1-2 pertain to  
25 Forona, Forona either is without knowledge or information sufficient to form a belief as to  
26 the truth of those allegations and therefore, denies the same, or generally denies the same.  
27

## COUNT 9: CONVERSION

1.-4. To the extent the allegations contained in Count 9, paragraphs 1-4 pertain to Forona, Forona either is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore, denies the same, or generally denies the same.

#### IV. JURY DEMAND

Section IV of the complaint is not an allegation toward this defendant and requires no response.

## **V. RELIEF REQUESTED**

1. Forona either is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph V of the complaint and therefore, denies the same, or generally denies the same.

## VI. AFFIRMATIVE DEFENSES

6.1 Defendant Forona incorporates and alleges any and all affirmative defenses asserted by co-defendants and applicable to the claim(s) against Forona.

6.2 All or some of plaintiff's claims against Forona are barred because Forona did not have knowledge of the any actual infringement.

6.3 All or some of plaintiff's claims against Forona are barred because Forona did not materially contribute to any actual infringement

6.4 Plaintiff's claim(s) against Forona is barred in whole or in part by the safe harbor provisions of Digital Millennium Copyright Act.

6.5 If plaintiff suffered damages, then such damages were caused in whole or in part by the negligence or other fault of plaintiff, thus barring or diminishing its claims, if any.

1       6.6     If plaintiff suffered damages, then some or all of his damages were the result  
2 of intervening acts by third parties, which constitute a superseding cause relieving this  
3 defendant of liability.  
4

5       6.7     All or some of plaintiff's claims are barred by estoppel, unclean hands, fraud,  
6 illegality, misrepresentation and/or negligence of plaintiff and/or its agents.  
7

8       6.8     All or some of plaintiff's claims are barred because Forona, at all times, acted  
9 in good faith.  
10

11       6.9     All or some of plaintiff's claims are barred because Forona's conduct was  
12 neither willful nor intentional.  
13

## **VII. RESERVATION OF RIGHTS**

14       7.1     Forona reserves its right to amend its answer to assert additional claims or  
15 affirmative defenses as discovery may require. Forona reserves the right to assert any  
16 defenses that may be available to co-defendants.  
17

18       WHEREFORE, Defendant Forona prays for relief as follows:  
19

- 20       a. That plaintiff's claims against Forona be dismissed;
- 21       b. For attorney's fees, costs and disbursements herein incurred; and
- 22       c. For such other relief as the Court may deem just and equitable.  
23

24       DATED this 12<sup>th</sup> day of October 2007.  
25

26       LADENBURG KRAMER, PLLC  
27

28       By \_\_\_\_\_  
29

30       JOHN W. LADENBURG, JR., WSBA #26349  
31       Attorney for Defendant  
32       FORONA TECHNOLOGIES, INC.  
33

## **CERTIFICATE OF SERVICE**

I certify that on the date stated below I caused this document to be:

electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jefferson Coulter, II  
Shannon Whitemore  
Axios Law Group  
1725 Westlake Ave. N., Ste 101  
Seattle WA 98109  
[jeff@axioslaw.com](mailto:jeff@axioslaw.com)

John A. Bender  
Robin A. Schachter  
Ryan, Swanson & Cleveland, PLLC  
1201 3<sup>rd</sup> Ave Ste 3400  
Seattle WA 98101-3034  
[bender@ryanlaw.com](mailto:bender@ryanlaw.com)  
[schachter@ryanlaw.com](mailto:schachter@ryanlaw.com)

- mailed by first class United States mail, postage prepaid, to the following non-CM/ECF participants:
- hand delivered to the following non-CM/ECF participants:

Dated October 12, 2007 at Tacoma, Washington.

John W. Ladenburg, Jr.  
Ladenburg Kramer, PLLC  
1019 Pacific Ave Ste 1116  
Tacoma WA 98402  
253-272-5226 ph.  
253-295-2326 fx.  
[john@ladenburgkramer.com](mailto:john@ladenburgkramer.com)